

**THE UNITED STATES DISTRICT  
COURT FOR THE EASTERN DISTRICT  
OF TEXAS MARSHALL DIVISION**

**Loramax LLC, Plaintiff,**

**v.**

**The Kroger Co., Defendant.**

**Civil Action No. \_\_\_\_\_**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which Loramax LLC (“Loramax” or “Plaintiff”) makes the following allegations against The Kroger Co. (“Kroger” or “Defendant”):

**PARTIES**

1. Plaintiff Loramax is a limited liability company organized under the laws of the State of Texas and has its principal place of business at 2305 North St., Ste. 205, Beaumont, Texas, 77702.

2. Upon information and belief, Defendant Kroger is a company organized and existing under the laws of the State of Ohio, with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio, 45202. Defendant may be served via its registered agent for service of process: Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

**JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is subject to this Court’s specific and

general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). On information and belief, Defendant has transacted business in this district, and has performed at least a portion of the infringements alleged herein in this district.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 5,689,642**

6. Plaintiff Loramax is the owner by assignment of United States Patent No. 5,689,642 (“the ’642 Patent”) titled “Recipient Prioritized Communication Channel Profiles.” The ’642 Patent was duly issued by the United States Patent and Trademark Office on November 18, 1997. A true and correct copy of the ’642 Patent is attached as Exhibit A.

7. Upon information and belief, Defendant makes, uses, operates, and makes available to the public, directly or through intermediaries, a website and related systems that are accessible to the public via the URL at <https://www.kroger.com/> (“the Accused Instrumentality”).

8. Upon information and belief, Defendant has infringed the ’642 Patent during its term in the State of Texas, in this district, and elsewhere in the United States, by, among other things, directly or through intermediaries, making, using, operating, and making available to the public the Accused Instrumentality that performs methods covered by at least claims 1 and/or 6 of the ’642 Patent to the injury of Plaintiff. Defendant has directly infringed, literally and/or under the doctrine of equivalents, the ’642 Patent during the term of the ’642 Patent. Defendant

and is thus liable for infringement of the '642 Patent pursuant to 35 U.S.C. § 271.

9. As a result of Defendant's infringement of the '642 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Loramax respectfully requests that this Court enter:

10. A judgment in favor of Plaintiff that Defendant has infringed, either literally and/or under the doctrine of equivalents, the '642 Patent;

11. A judgment and order requiring Defendant to pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '642 Patents as provided under 35 U.S.C. § 284; and

12. Any and all other relief as the Court may deem appropriate and just under the circumstances.

**DEMAND FOR JURY TRIAL**

Plaintiff Loramax, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

DATED May 15, 2015.

Respectfully submitted,

*/s/ Jaspal S. Hare*

By:\_\_\_\_\_

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